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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,368	10/10/2002	Brian Kaczmarek	201-1510	1003

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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS, MI 48304

EXAMINER


CHANG, CHING

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/065,368	Applicant(s) KACZMAREK ET AL. 	
	Examiner Ching Chang	Art Unit 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-17 and 19-32 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 28-32 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 10-17, 19, 21, 24, 26-27 is/are rejected.
- 7) ☐ Claim(s) 20, 22, 23 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the amendment filed on March 16, 2004.

Claims 7 and 18 are cancelled, and new claims 28-32 are added as requested.

Claim Objections

1. Claims 11-15, 20, 22-23, 26-27, and 31-32 are objected to because of the following informalities:
 - " frames " in claims 11, and 22-23 appears to be -- frame --.
 - " are " in claims 22-23 appears to be -- is --.
 - " have " in claim 20 appears to be -- has --.
 - " providing bracket frames, said bracket frames " in claim 26 appears to be -- providing a bracket frame, said bracket frame --.
 - " said fastener " in claim 31 appears to be -- a fastener sleeve --.
 - " frames " in claim 32 appears to be -- frame --.

Appropriate corrections are required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. ***Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews et al. (US Patent No. 5,035,637) in view of design choice, and further in view of Hendriksma et al. (US Patent No. 6,499,451).***

Mathews discloses a valve cover gasket (See Figs 2-11) comprising: a generally compliant first material (10, 98) having an upper surface for contact with a cover (27) and a lower surface for contact with an engine head (28); a generally rigid bracket frame of a second material (19; 20; 82) connected with said first material; and a solenoid actuator (a injector through connectors 104, 86, and 100) connected with said second material, wherein said first material is a polymeric material and said second material is a metal.

Mathews further discloses the said first material (10) includes a first polymeric material (10) and a second polymeric material (98), wherein said second polymeric material is an elastomeric material.

Mathews further discloses the said gasket encapsulates wiring (25, 26; wiring through opening 34) utilized to power said solenoid actuator, wherein said gasket has an external terminal for connection with an electrical connector (40; 84).

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Mathews further discloses, by the design choice, there would exist alternative positions (through connector 40 or connector 86) to connect the said solenoid actuator to the said gasket.

Mathews discloses the invention, however, fails to disclose the said gasket being connected with a plurality of solenoid actuators to control a plurality of rocker arms.

The patent to Hendriksma on the other hand, teaches that it is conventional in the art of control system for variable activation of intake valve, to utilize a plurality of electrical components of assembly 40' located outside a camshaft cover 56 to control a plurality of cam finger follower 12'.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the control relationship between the electrical components assembly and the cam finger follower taught by Hendriksma in the Mathews device, since the use thereof would provide an improved cam cover gasket as a bridge between the solenoids and the rocker arms.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews et al. in view of design choice, further in view of Hendriksma et al. (as applied to claim 1), and further in view of Payne et al. (US Patent No. 6,439,176).

The modified Mathews device discloses the invention, however, fails to disclose the said bracket frame including bracket supports connected to support the said solenoid actuator.

The patent to Payne on the other hand, teaches that it is conventional in the art of control system for deactivation of valves, to utilize a connector/retainer (84) with several supports (86) being connected to a gasket plate (44) to hold solenoids (30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the retainer with supports being connected with the gasket to hold the solenoids as taught by Payne in the modified Mathews device, since the use thereof would provide an improved cam cover gasket connected with a retainer with supports to hold solenoids.

5. Claims 10, 16-17, 21, 24, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iizuka et al. (US Patent No. 6,615,796) in view of Hendriksma et al. (US Patent No. 6,499,451), and further in view of Mathews et al. (US Patent No. 5,035,637) and in view of design choice.

Iizuka discloses an internal combustion engine and a method of assembling of it, comprising: a plurality of combustion chambers (29A to 29D); a head (22) with a plurality of respective passageways (40, 41) fluidly connected with said combustion chambers (See Figs. 1-6); a plurality of valves (47, 48) controlling fluid communication between said respective passageways and said chambers; a plurality of respective rocker arms (59, 60) for activating said valves, said rocker arms having first and second modes of operation of said valves; a cover (23) enclosing said rocker arms having a surface for mating with said head; a gasket (25) captured between said cover mating surface and said head.

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lizuka discloses the invention, however, fails to disclose a plurality of solenoid actuators being activated respective rocker arms between a first and a second modes of operation.

The patent to Hendricksma on the other hand, teaches that it is conventional in the art of control system for variable activation of intake valves, to utilize solenoid actuators 40' to activate respective cam finger followers 12'.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized solenoids as taught by Hendricksma in the lizuka device, since the use thereof would provide an improved engine with solenoids actuated valve trains.

The modified lizuka device recites the invention above, however, fails to disclosed the said gasket being fabricated from a generally soft material and a generally rigid material providing a bracket frame and said gasket encapsulating power supply wiring to power the said solenoids.

The patent to Mathews on the other hand, teaches that it is conventional in the art of engine valve cover gasket, to utilize a gasket (10) being fabricated from a generally soft material (10, 12, 98) and a generally rigid material providing a bracket frame (19; 20; 82) and said gasket encapsulating power supply wiring (25, 26) to power the said solenoid actuators, wherein said soft material is a polymeric material and said rigid material is a metal, wherein said soft material includes a first polymeric material (10) and a second polymeric material (98), wherein said second polymeric material is an elastomeric material, Mathews further discloses, by the design choice, there would exist

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alternative positions (through connector 40 or connector 86) to connect the said solenoids to the said gasket.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the gasket to position the said solenoids as taught by Mathews in the modified lizuka device, since the use thereof would provide an improved gasket to empower the variable valve actuation system of an engine.

6. ***Claims 11-15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over lizuka in view of Hendriksma, further in view of Mathews et al. and design choice (as applied to claim 10 above), and further in view of Payne et al. (US Patent no. 6,439,176).***

The modified lizuka device discloses the invention, however, fails to disclose the said bracket frame further including bracket supports connected with said frame for supporting said solenoid.

The patent to Payne on the other hand, teaches that it is conventional in the art of control system for deactivation of valves, to utilize a connector/retainer (84) with supports (86) being connected to a gasket plate (44) to hold solenoids (30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the retainer being connected with the gasket to hold the solenoids as taught by Payne in the modified lizuka device, since the use thereof would provide an engine with an improved cam cover gasket connected with a retainer with supports to hold solenoids.

Allowable Subject Matter

7. Claims 9, and 28-32 are allowed.

8. Claims 20, 22-23, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 10 and 24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ching Chang whose telephone number is (703)306-3478. The examiner can normally be reached on M-Th, 7:00 AM -5:00 PM.

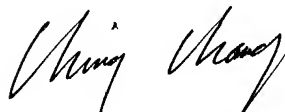
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (703)308-2623. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should


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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent Examiner



Ching Chang



THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700